



State of Nebraska

NEBRASKA EQUAL OPPORTUNITY COMMISSION

COMMISSION MEETING OF MARCH 19, 2010

Commissioner Yates called the meeting to order in Lincoln, Nebraska at 9:06 a.m. on March 19, 2010. It was established after a roll call that there was a quorum.

I. ROLL CALL

Commissioners Present

Kristin Yates, Chairperson
Bette Trumble
William M. Williams

Ann Dover, Vice Chairperson
Arnold Nesbitt
J.L. Spray (Arrived at 10:36)

Staff Present

Barbara Albers, Interim Executive Director
Tracey Poyer, Unit Director

Gretchen Eure, Unit Director
Cat Souliere, Staff Assistant

II. AFFIDAVIT OF PUBLICATION

The Affidavit of Service from the Lincoln Journal Star was read to show that the public was made aware of the March 19, 2010 Commission meeting.

III. APPROVAL OF MINUTES

Commissioner Nesbitt moved to approve the February 19, 2010 Commission meeting minutes.

Commissioner Dover seconded the motion.

ROLL CALL:

Ayes: Trumble, Dover, Yates, Williams, Nesbitt

Nayes:

Abstained:

Motion Carried

MAIN OFFICE:

301 Centennial Mall, South ☐
PO Box 94934
Lincoln, NE 68509-4934
Phone: 402-471-2024
Fax: 402-471-4059
800-642-6112
www.NEOC.ne.gov

BRANCH OFFICES:

1313 Farnam-on-the-Mall ☐
Omaha, NE 68102-1836
Phone: 402-595-2028
Fax: 402-595-1205
800-382-7820

4500 Avenue I ☐
PO Box 1500
Scottsbluff, NE 69363-1500
Phone: 308-632-1340
Fax: 308-632-1341
800-830-8633

Commission Meeting Minutes

March 19, 2010

Page - 2 -

IV. ADDITIONS OR CORRECTIONS

Under Section IX. ADMINISTRATIVE ACTIONS, please add F. COMPLAINANT FILING IN COURT, NEB 2-08/09-4-40307.

Under Section X. CONCILIATION, please add NEB 1-08/09-2-40123.

Under Section XIV. BUSINESS, C. Legislature/Legal Issues, please add (1) Representation by non-attorneys.

Under Section XIV. BUSINESS, E. Miscellaneous, please add (2) LCHR Conference - April 20 and 21, 2010 and (3) New Packet Format Discussion.

V. PUBLIC INPUT (Non Case)

Limit of 5 minutes per person for a total of a 30 minute session.

None at this meeting.

VI. INTRODUCTION TO PUBLIC INPUT (Agenda Cases)

The cases wherein a party to the case was present were moved to the front of the agenda under Section VIII. CASE DISPOSITIONS.

VII. CASE DISPOSITIONS

NEB 1-08/09-6-40657 (Respondent was present.)

Commissioner Trumble moved for no reasonable cause.

Commissioner Dover seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

NEB 2-08/09-6-40522 (Complainant and Respondent were present.)

Commissioner Nesbitt moved for no reasonable cause.

Commissioner Trumble seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

Commission Meeting Minutes

March 19, 2010

Page - 3 -

NEB 2-08/09-6-40394 (Respondent was present.)

Commissioner Nesbitt moved for no reasonable cause.

Commissioner Dover seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

NEB 2-09/10-8-40569 (Complainant and Respondent were present.)

Commissioner Nesbitt moved for no reasonable cause.

Commissioner Dover seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

NEB 1-09/10-1-2473-H (Complainant was present.)

Commissioner Williams moved for no reasonable cause.

Commissioner Nesbitt seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

NEB 1-08/09-3-40271 (Respondent was present.)

Commissioner Dover moved for no reasonable cause.

Commissioner Trumble seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams
 Nayes:
 Abstained:
 Motion Carried

Commissioner Nesbitt was out of the room.

Commission Meeting Minutes

March 19, 2010

Page - 4 -

NEB 1-09/10-11-2460-H

Commissioner Nesbitt moved for reasonable cause.

Commissioner Trumble seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

The Commission took a short break.

NEB 1-08/09-6-40670

NEB 3-08/09-3-40232

NEB 1-09/10-9-40784

NEB 2-09/10-9-2445-PA

NEB 2-08/09-3-40151

NEB 3-08/09-3-40233

NEB 2-08/09-2-40068

NEB 2-09/10-7-40540

NEB 2-08-09-6-40501

NEB 2-08/09-6-40396

NEB 2-09/10-7-40538

NEB 2-08/09-4-40316

Commissioner Nesbitt moved for no reasonable cause.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Nayes:
 Abstained:
 Motion Carried

NEB 1-08/09-6-40672

Commissioner Nesbitt moved for reasonable cause.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Nayes:
 Abstained:
 Motion Carried

Commission Meeting Minutes

March 19, 2010

Page - 5 -

VIII. SUCCESSFUL AGREEMENTS

NEB 2-09/10-12-41002

NEB 2-09/09-4-40303

NEB 2-09/10-8-40585

Commissioner Nesbitt moved to accept the successful agreements as presented.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

IX. ADMINISTRATIVE ACTIONS

A. HUD

NEB 1-09/10-7-2418-H

Commissioner Nesbitt moved to accept the administrative decision as presented.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

B. WITHDRAWAL BY COMPLAINANT

NEB 2-09/10-1-2470-H

NEB 1-09/10-9-40795

Commissioner Trumble moved to administratively close the above cases based on withdrawal by the Complainant.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

Commission Meeting Minutes

March 19, 2010

Page - 6 -

C. LACK OF JURISDICTION

NEB 2-09/10-9-40805

Commissioner Yates moved to administratively close the above cases based on lack of jurisdiction.

Commissioner Dover seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

D. EEOC

NEB 1-08/09-6-40500

NEB 1-08/09-9-39549

NEB 2-09/10-7-40528

Commissioner Yates moved to adopt the findings of the EEOC.

Commissioner Trumble seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

Commissioner Williams moved to reconsider the vote on NEB 2-09 /10-7-40528.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Nesbitt
 Naves:
 Abstained: Williams, Spray
 Motion Carried

Commissioner Williams moved to adopt the findings of the EEOC on case NEB 2-09/10-7-40528.

Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt
 Naves:
 Abstained: Spray
 Motion Carried

Commission Meeting Minutes

March 19, 2010

Page - 7 -

E. WITHDRAWAL WITH SETTLEMENT

NEB 1-09/10-8-40747

Commissioner Yates moved to administratively close the above cases based on withdrawal with settlement.

Commissioner Trumble seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

F. COMPLAINANT FILING IN COURT

NEB 2-08/09-4-40307

Commissioner Yates moved to administratively close the above cases based on the Complainant filing in court.

Commissioner Trumble seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

X. CONCILIATION

NEB 2-07/08-2-38815

NEB 2-08/09-11-39642

NEB 2-08/09-10-39619

NEB 2-09/10-9-40813

NEB 1-08/09-2-40123

Commissioner Yates moved to adopt the recommendations of the Director of Conciliations.

Commissioner Nesbitt seconded the motion.

Commissioner Nesbitt expressed a desire for the public to be more aware of successful conciliations.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

Commission Meeting Minutes

March 19, 2010

Page - 8 -

XI. CONCILIATION CASES TO BE CONSIDERED FOR PUBLIC HEARING

None at this time.

XII. PUBLIC HEARING

NEB 1-07/08-5-39198 Osborn vs. BNSF Railway Co.

Commissioner Nesbitt moved to accept the recommendations of the hearing officer.
Commissioner Spray seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Williams, Nesbitt, Spray
 Naves: Yates
 Abstained:
 Motion Carried

XIII. CIVIL ACTION

NEB 2-08/09-4-2404-H
NEB 2-08/09-4-2405-H
NEB 2-08/09-4-2406-H
NEB 2-08/09-2-2381-H
NEB 2-08/09-9-2355-H
NEB 1-09/10-7-2421-H

Commissioner Yates moved to close the above cases due to them being filed in court.
Commissioner Dover seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Williams, Nesbitt, Spray
 Naves:
 Abstained:
 Motion Carried

XIV. BUSINESS

1. Executive Director and Committee Reports

A. Budget

(1) 2010/2011 Budget

Interim Director Albers said there is a two percent cut to agency funding beginning July 1, 2010, in addition to the five percent cut the Commission is already aware of. She noted that if she continues as Interim Director through June 30th, then the two percent cut is taken care of.

Commission Meeting Minutes

March 19, 2010

Page - 9 -

B. Personnel Policy & Procedures

(1) Outcome of Meeting on March 11, 2010

Interim Director Albers stated that the administrative staff and part of the Commission met to discuss potential agency restructuring. There is another meeting scheduled for April 1, 2010 to formalize plans to offer at the April Commission meeting. She noted that the April Commission meeting may take longer due to the discussion planned.

The Commission decided to move the April Commission meeting to Lincoln, keeping the 16th as the date.

Commissioner Williams left the meeting at 11:36 a.m.

C. Legislature / Legal Issues

(1) Representation by Non-attorneys

Commissioner Spray stated that the Nebraska Supreme Court adopted a rule that indicates that non-attorneys cannot represent individuals in particular situations. He notes that there are some permitted exceptions and that there is some discretion that the Commission can use. He believes that the Commission should make a firm decision as to what the Commission will permit.

Commissioner Spray moved that the Commission decide to have a policy and that the Commission permits him to draft both a policy where the Commission doesn't allow representation by non-attorneys and a policy where they do allow it under certain circumstances. Commissioner Yates seconded the motion.

ROLL CALL: Ayes: Trumble, Dover, Yates, Nesbitt, Spray
 Nayes:
 Abstained:
 Motion Carried

D. Public Relations

(1) None at this Time

E. Miscellaneous

(1) Request from ADA Center

Interim Director Albers said that there was a request from the Nebraska coordinator of the Midwest ADA Center for agencies to sign to a particular letter directed to the Governor.

Commissioner Yates requested Interim Director Albers try to discover who, in the state government, is responsible for handling ADA issues.

Commission Meeting Minutes

March 19, 2010

Page - 10 -

(2) LCHR Conference – April 20 & 21, 2010

Interim Director Albers stated that there is a LCHR Conference scheduled for April 20 and 21, 2010. She indicated she plans to permit attendance by investigative staff. She noted that this would cover required training as well as provide some useful information.

(3) New Packet Format Discussion

The Commission considered revising the method by which they receive the case information before Commission meetings. They decided to receive them by e-mail for the next meeting, with a hard copy for the Chair at the meeting.

Commissioner Spray left the meeting at 12:16 p.m.

XV. ADJOURNMENT

Commissioner Nesbitt moved to adjourn the March 19, 2010 Commission meeting at 12:23 p.m. Commissioner Trumble seconded the motion.

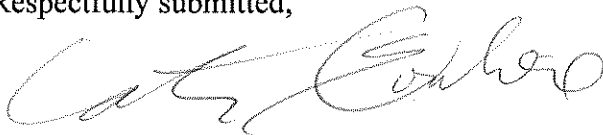
ROLL CALL: Ayes: Trumble, Dover, Yates, Nesbitt
 Nayes:
 Abstained:
 Motion Carried

Commission Meeting Minutes

March 19, 2010

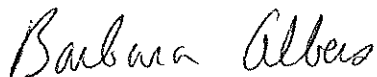
Page - 11 -

Respectfully submitted,



Cat Souliere
Staff Assistant

March 19, 2010
Date



Barbara Albers
Interim Executive Director

3-22-10
Date

The Minutes of the Nebraska Equal Opportunity Commission meeting of March 19, 2010 have been corrected and accepted, and henceforth approved on this date.



Kristin Yates, Chairperson

APR 16 2010
Date